

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**JAMES R. BARTA, A&A DRUG, INC.
and SAV-RX, LLC,**

Plaintiffs,

VS.

CANARX SERVICES, INC.,

Defendant.

8:05CV35

ORDER

This matter is before the court on the motion of D.C. Bradford, Justin D. Eichmann and the law firm of Bradford & Coenen for leave to withdraw as counsel for CanaRx Services, Inc. ("CanaRx") (Filing 39). The motion and accompanying Affidavit (Filing 40) were served on opposing counsel and on the defendant:

CanaRx Services, Inc.
c/o Larry M. Belowus
BELOWUS EEASTON & ENGLISH
100 Ouellette Avenue, Seventh Floor
Windsor, Ontario N9A 6T3
CANADA

I note that no substitute counsel has entered an appearance on behalf of CanaRx. The Eighth Circuit has held that "the law does not allow a corporation to proceed pro se." *Ackra Direct Mktg. Corp. v. Fingerhut Corp.*, 86 F.3d 852, 857 (8th Cir. 1996); see also *United States v. Van Stelton*, 988 F.2d 70, 70 (8th Cir. 1993) (noting that a corporation may not appear pro se); *Carr Enters., Inc. v. United States*, 698 F.2d 952, 953 (8th Cir. 1983) ("[i]t is settled law that a corporation may be represented only by licensed counsel"). In fact, according to the Eighth Circuit, a corporation is technically in default as of the date its counsel is permitted to withdraw from the case without substitute counsel appearing. *Ackra Direct*, 86 F.3d at 857.

Under the circumstances, I find that counsel should not be given leave to withdraw until CanaRx has the opportunity to obtain substitute counsel.

IT IS ORDERED:

1. The Motion to Withdraw [39] is held in abeyance until **October 25, 2006**.

2. CanaRx Services, Inc. shall have substitute counsel enter an appearance on its behalf on or before **October 25, 2006**. If CanaRx Services, Inc. fails to have substitute counsel enter an appearance by that date the court may strike the answer of CanaRx Services, Inc. and enter default, pursuant to Fed. R. Civ. P. 37(b)(2)(C).

3. Moving counsel shall, forthwith, serve copies of this Order on CanaRx Services, Inc. at its last known address by certified mail, return receipt requested.

4. Moving counsel shall timely file proof of service showing compliance with paragraph 3, above, and listing the names and addresses of the persons to whom notice was sent.

DATED September 18, 2006.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**